



DATE: September 8, 2022

TO: Mayor Robinson and Members of the City Council

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*Development Services Department*

**SUBJECT:** Public Hearing on a proposed Land Use Code Amendment (LUCA) to provide additional extension periods during a declared natural disaster or emergency circumstance for Temporary Public Safety Facilities (TPSFs) in the Land Use Code (LUC).

## **I. BACKGROUND**

Continuity and consistency are vital in response and recovery of natural disasters or unforeseen emergency circumstances. TPSFs include shelters, services, staging and operations facilities for responders, and are vital in protecting the health, safety, and welfare of those affected by a natural disaster or emergency circumstance.

The LUC, Section 20.20.850, provides for TPSFs and exempts them from general site development standards and all discretionary land use permits, including conditional use permits and design review. TPSFs are approved by the Development Services Department (DSD) Director for an initial operating period of 24 months, with the allowance for *one* 12-month extension to the operating period, or a maximum duration of 36 months. The proposed LUCA will modify the single extension limitation in LUC 20.20.850.B, to allow multiple 12-month extensions of the TPSF during the declared disaster or emergency.

This proposed LUCA acknowledges that a natural disaster or emergency circumstance may persist for greater than 36 months and enables TPSFs to operate throughout the disaster or emergency. The extension period remains up to 12 months and a TPSF will be required to reapply to the DSD Director for extensions annually.

An example of a TPSF is the Congregations for the Homeless (CFH) interim men's shelter at Lincoln Center. Following the City's declaration of an emergency circumstance related to the lack of an overnight men's shelter on the Eastside, the CFH-run TPSF was approved in December 2019. Illustrating the dilemma of the current 36-month maximum approval period, the CHF-run TPSF is set to reach the end of its maximum approval period in December of this year, while the emergency circumstance continues and months before the expected completion of its permanent Eastside Men's Shelter in Q1 of 2023. The loss of

shelter services for this period would present a threat to the public health of those experiencing homelessness as noted in the City Manager's emergency declaration. This LUCA will allow multiple extensions to the original approval, and ensure continuity in servicing the needs of those affected by the emergency circumstance.

For clarity and ease of administration, this proposed LUCA will also modify the start date of the approval period to begin at the time that the DSD Director issues their decision, rather than the date operations of the TPSF commence.

This proposed LUCA will:

1. Allow the DSD Director to grant multiple 12-month extensions for TPSFs, where appropriate during a declared natural disaster or emergency circumstance.
2. Amend the start date of the approval period to begin at the approval date of the TPSF.

## **II. REVIEW PROCESS**

On September 6, the City Council held a Study Session, at which time they retained processing of the LUCA and directed staff to schedule the public hearing for the proposed LUCA. The public hearing is now scheduled for September 26. Council may adopt the proposed LUCA any time subsequent to the public hearing.

## **III. STATE ENVIRONMENTAL POLICY ACT (SEPA)**

The Environmental Coordinator for the City of Bellevue has determined that this LUCA is Categorically Exempt from the Threshold Determination requirements of the State Environmental Policy Act pursuant to the terms of WAC 197-11-800(19).

## **IV. PUBLIC ENGAGEMENT**

### Required Public Notice

The notice required for City Council Legislative Actions (Process IV) is governed by LUC 20.35.415 through 20.35.450. A combined notice of the LUCA application and public hearing was published in the Weekly Permit Bulletin on September 8, a notice of public hearing will be published in the Seattle Times on September 12. A copy of this staff report was included in the combined notice in the Weekly Permit Bulletin.

### Department of Commerce Notice

Pursuant to the GMA, proposed amendments to the LUC must be sent to the Washington State Department of Commerce to review and comment on the proposed amendments to the LUC. A copy of the required transmittal to the Department of Commerce, including a

copy of the proposed amendments, was transmitted on August 31, and is available for review in the code amendment file.

#### Public Comments

As of this writing, no public comments have been received in response to this LUCA.

### **V. DECISION CRITERIA**

LUC 20.30J.135 establishes the decision criteria for an application to amend the text of the Land Use Code. Those criteria, and the relationship of these proposed amendment to them, are discussed below:

A. The amendment is consistent with the Comprehensive Plan; and

**Finding:** The proposed LUCA is consistent with the Comprehensive Plan. This LUCA will allow for continuity of services, vital in any emergency response and recovery process, and preparation for disasters or unforeseen emergency services. The following Comprehensive Plan policy supports the proposed LUCA:

**Policy N-4:** Plan and prepare for the response, recovery, and mitigation of potential disasters and hazards.

B. The amendment enhances the public health, safety or welfare; and

**Finding:** This LUCA will enhance the public health, safety, and welfare by allowing TPSFs multiple extensions to the original operational period. By allowing multiple extensions to the approval period for TPSF, the City is ensuring that facilities can operate throughout the emergency circumstance, thereby allowing consistency and continuity in levels of service and location of services.

C. The amendment is not contrary to the best interest of the citizens and property owners of the City of Bellevue.

**Finding:** This LUCA is not contrary to the best interests of citizens and property owners as it will benefit all members of the public by ensuring continuity of emergency services in an emergency or unforeseen circumstances.

### **VI. RECOMMENDATION**

Staff has concluded that the TPSF LUCA, as drafted in Attachment A, is consistent with the decision criteria required for adoption of amendments to the text of the LUC, pursuant to Part 20.30J LUC. Staff recommends that the City Council approve this LUCA.

**ATTACHMENT:**

A. Proposed Temporary Public Safety Facilities LUCA Strike-Draft

August 19, 2022

**20.20.850 Temporary public safety facilities.**

- A. Temporary public safety facilities include: (1) temporary stations for fire protection and police protection, and (2) temporary facilities to provide relief or assistance services to the public, or to provide services related to the administration or management of such relief or assistance services, in case of annexation or in times of natural disaster or other unforeseen emergency circumstances. The existence of a natural disaster or unforeseen emergency circumstances shall be determined by the City Manager.
- B. For purposes of this section, a temporary public safety facility is a facility which terminates its operations not later than 24 months from the approval date. ~~operations are commenced; provided, that However,~~ upon application a request to extend the approval period filed not later than 30 days prior to expiration of the original or any subsequent approval period~~24-month period~~, the Director of the Development Services Department may grant the request and extend to the approval of the facility for ~~an~~ additional periods of up to 12 months per extension request or for the duration of the natural disaster or unforeseen emergency circumstances. Such approval may be conditioned by the Director pursuant to any of the provisions of this Land Use Code.
- C. A temporary public safety facility is exempt from any otherwise applicable Conditional Use Permit, Design Review approval process or other discretionary land use approval process, and from the site development standards and other requirements of the Land Use Code; provided, that:
  1. Application for approval of a temporary public safety facility shall be made to the Director of the Development Services Department. As a condition of approval of the facility or of approval of a request for a 12-month extension of the life of the temporary facility under subsection B of this section, the Director may require the facility to comply with such site development standards of the Land Use Code as are reasonably necessary to provide compatibility of the facility with surrounding uses and to minimize the impact of the facility on surrounding uses.
  2. Nothing in this section shall exempt such a facility from permit requirements under applicable building, plumbing, mechanical, electrical, and other similar codes.